



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 7451/2025

Udhyog Mandir Jaipur, Registered Office Near Neelam Cinema,
Aamer, Jaipur Through Representative And Manager, Khadi
Gramodhyog Bhawan, Sanand House Bhawan, Raj Bhawan Marg,
Mount Abu 307501.

-----Petitioner

Versus

1. Shri Bharat K. Shah S/o Shri Kantilal Shah, R/o C-298,
Riico Housing Colony, Aburoad, Sirohi.
2. Smt. Shakuntla Devi Goyal S/o Late Shri Rameshchandra
Goyal, R/o Aazad Maidan, Aburoad.
3. Smt. Meena Goyal W/o Shri Satish Chandra Goyal, R/o 7
New Agarwal Colony, Near Mahaveer Talkies, Aburoad.
4. Smt. Kalpita Shah W/o Shri Ankit Kumar Shah, R/o C-298
Riico Housing Colony Aburoad.
5. Smt. Neelu Singla W/o Shri Ajay Singla, R/o Opposite
Vaidik Girls School, Aburoad.

-----Respondents

For Petitioner(s)	:	Mr. P.R. Singh with Mr. Himmat Singh Bhati.
For Respondent(s)	:	

HON'BLE MR. JUSTICE ARUN MONGA
Order (Oral)

14/07/2025

1. The grievance of the petitioner (defendant) is against the order dated 24.02.2025 (Annexure-6) passed by the Civil Judge (Senior Division), Mount Abu, District Sirohi, in Civil Original Suit No. 26/2024, whereby the learned Trial Court rejected the petitioner's (defendant's) application filed under Order 6 Rule 17 CPC seeking amendment in the reply/written statement.
2. Brief facts of the case first. The respondent-plaintiffs filed a civil suit on 31.05.2024 for eviction of the petitioner-defendant



from rented premises and recovery of due rent with compensation before the Civil Judge (Senior Division), Mount Abu, Sirohi. The petitioner firm had rented the premises at Rs. 10,860 per month from Smt. Shridatri Singh and relatives. The plaintiffs later purchased the property, making the petitioner-defendant a tenant under the respondent-plaintiff by operation of law. No formal rent or lease agreement was executed, but monthly rent was agreed, with leases ending on the last day of each month as per the Gregorian calendar.

2.1. The suit's grounds for eviction were non-payment of rent from October 2022 to March 2024 and the plaintiffs' personal need for the premises. The respondents claimed similar premises rent for about Rs. 3 lakhs per month. They also alleged the premises were unkempt, with a damaged ceiling posing collapse risks, supported by a certificate from the Executive Engineer, Public Works Department, Aburoad (Annexure-1).

2.2. The petitioner-defendant replied, specifically addressing paragraph 13 of the plaint. The trial court framed six issues: ownership and rent terms, validity of tenancy termination for personal need and rent default, rent due and interest entitlement, compensation claim, limitation for suit filing, and relief.

2.3. Meanwhile, the certificate dated 05.04.2024 from the Public Works Department was nullified and withdrawn as the property lies within Municipal Board Mount Abu's jurisdiction, making the certificate invalid. Though the plaint alleges the premises are unsafe, the relied-upon certificate was issued beyond jurisdiction and withdrawn.



2.4. Additionally, the petitioner-defendant obtained an office order dated 31.01.2025 and related communication dated 06.02.2025 under the Right to Information Act, 2005 concerning the withdrawn certificate (Annexure-5).

2.5. Clarification of these facts required amendment of the petitioner's reply via an application under Order 6 Rule 17 CPC, which the trial court rejected on 24.02.2025 without addressing these key issues. The matter was set for 25.02.2025 for arguments under Section 151 CPC, but court records show the next hearing in suit No. 26/2024 is on 17.03.2025 (Annexure-4). Hence, this petition.

3. In the aforesaid backdrop, I have heard learned counsel for the petitioner and have perused the case file.

4. Learned counsel for the petitioner - defendant argues that the application under Order 6 Rule 17 CPC should have been allowed, as the respondents-plaintiff based their suit on a certificate that was issued by an incompetent authority and contained untrue facts. Upon receipt of the office order dated 31.01.2025 withdrawing the certificate dated 05.04.2024, the petitioner promptly filed the application to amend the reply to address these material facts. The learned trial court erred in rejecting this application, and such rejection is unsustainable, warranting allowance of the writ petition on this ground alone.

4.1. Further, the petitioner submits that the affidavit of the plaintiff's evidence was served only recently, along with the Executive Engineer's communication dated 06.02.2025 that nullified the original certificate. The petitioner had no intention to delay the proceedings but needed to present correct facts as the



suit's core issue—termination of tenancy due to bona fide need and unkempt condition—was founded solely on the now-invalid certificate. The trial court's refusal to allow amendment to respond to this pivotal issue violates settled legal principles.

4.2. He would also argue that the respondent-plaintiff's conduct is not bona fide. Despite 23 hearing dates being fixed in eight months, the suit hearing has been irregularly conducted, with the official court website showing the next hearing date as 17.03.2025. The civil suit has been transferred recently, and if the impugned order dated 24.01.2025 remains in force, preventing amendment of the reply, the petitioner-defendant will suffer serious prejudice.

5. Having heard learned counsel for the petitioner, I do not deem it necessary to issue notice to the respondent, as no prejudice would be caused to him by the nature of order which I propose to pass.

6. For ease of reference, English translation (as provided) of the impugned orders dated 24.02.2025, is provided as follows:

"Learned counsel for the parties are present.

The counsel for the respondent-defendant submitted an application under Order 6 Rule 17 read with Section 151 CPC. A copy of this application was provided to the counsel for the plaintiff. The counsel for the plaintiff did not file a written reply but wished to proceed with oral arguments. The arguments of both parties were heard.

The counsel for the respondent-defendant reiterated the facts mentioned in their application and argued that the plaintiff, in paragraph 15 of the plaint, had alleged that the roof of the disputed shop was damaged and dilapidated, making it unsafe for human use, as certified by a letter dated 05.04.2024 issued by the Executive Engineer of the Public Works Department, Aburoad. However, this certificate was recently revoked after the defendant submitted their reply. Due to this change during the proceedings, the respondent-defendant found it necessary to amend their reply



to incorporate this revocation. The said letter was received recently, and as the plaintiff's evidence has not yet commenced, the respondent wishes to amend the reply to ensure a just and proper resolution of the dispute and to fulfill the objectives of law and justice. Failure to allow this amendment would cause irreparable harm to the defendant. Therefore, the prayer application seeking permission to amend the reply by adding the proposed amendment as paragraph 15A is submitted for acceptance. Documents in support of the application were also presented on behalf of the respondent-defendant as part of the record.

Opposing this, the counsel for the plaintiff argued that the respondent-defendant had already submitted a detailed reply regarding the damaged and unsafe condition of the shop roof. Furthermore, if the Executive Engineer had canceled the earlier certificate, the respondent was free to present such documents as evidence. The respondent-defendant is merely attempting to delay the case and therefore, the application should be rejected with heavy costs.

After considering the arguments and reviewing the records, it is clear that the plaintiff in paragraph 15 of the plaint alleged the roof of the disputed shop was damaged and unsafe, relying on the certificate dated 05.04.2024 issued by the Executive Engineer, Public Works Department, Aburoad. However, the respondent-defendant submitted an office order from the same office dated 31.01.2025 stating that the certificate dated 05.04.2024 was revoked because the disputed building falls under the jurisdiction of the Municipal Board, Abu Road, and hence the certificate was invalidated. Therefore, it is evident that the earlier certificate was cancelled.

In this context, the defendant's reply in paragraph 13 contains detailed statements regarding this matter, and the court has framed Issue No. 2 on this point, where both parties are free to produce their evidence. If any documents arise during the proceedings, it is not proper to allow repeated amendments to pleadings. Since Issue No. 2 has been framed by the court for trial, both parties have the liberty to present their evidence.

Regarding Issue No. 2, the plaintiff and defendant are free to present their documents. Granting repeated permissions for amendment in pleadings may unnecessarily delay the case. The defendant is free to produce such documents during evidence without needing to amend pleadings. Considering these facts, the application filed under Order 6 Rule 17 read with Section 151 CPC by the respondent-defendant is rejected.

Accordingly, the application filed under Section 151 CPC on 25.02.2025 is disposed of. The matter shall proceed as per regular course."



7. From perusal of the order impugned, it transpires that the trial court rejected the application to amend the reply because Issue No.2, covering the disputed condition of the premises, was already framed, allowing both parties to present evidence on it during the trial. The court held that new documents could be submitted as evidence. Amendment sought would cause delay. Since the respondent-defendant had already addressed the property's condition and the certificate's revocation in their reply, the trial court saw no reason to allow the amendment.

8. I find that the petitioner is seeking amendment primarily based on the revocation of the certificate dated 05.04.2024 by the competent authority, which formed the core basis of the plaintiff's claim regarding the unsafe condition of the premises. The petitioner acted promptly upon receiving the office order dated 31.01.2025 and related communication, demonstrating no intention to delay the proceedings.

9. The trial court's rejection of the amendment application on the ground that Issue No.2 was already framed, thereby allowing parties to lead evidence on the disputed condition, though procedurally sound, fails to consider the fundamental requirement of presenting accurate pleadings that reflect the current status of material facts. Denial of amendment in such circumstances may prejudice the petitioner's right to a fair trial.

10. However, it is also necessary to balance the interests of both parties and ensure that the litigation proceeds without undue delay or vexation.

11. In any case, the trial is at a very nascent stage, i.e., at the stage of plaintiff's evidence, and the onus of proving the



averments contained in the amended reply would, at this stage, remain on the petitioner, who must do so by adducing evidence in accordance with law.

12. In the premise, the writ petition is allowed. The order impugned dated 24.02.2025 rejecting the application under Order 6 Rule 17 CPC is set aside. The petitioner-defendant is permitted to amend the reply to incorporate the revocation of the certificate and related facts, to ensure a just and proper resolution of the dispute. However, to compensate the respondent-plaintiffs for the inconvenience caused due to the delay and the additional proceedings necessitated by the amendment, the petitioner-defendant is directed to pay costs of Rs.10,000/- to the respondent-plaintiffs within four weeks from the date of this order.

13. The matter shall now proceed in accordance with the regular course, with both parties at liberty to adduce evidence on the amended pleadings.

(ARUN MONGA),J

18-Sumit/-

Whether Fit for Reporting:- Yes / No